

AMENDED IN ASSEMBLY MARCH 19, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2664

**Introduced by Committee on Public Employees, Retirement and
Social Security (Furutani (Chair), Allen, Ma, and Wieckowski)**

February 29, 2012

An act to amend Section 31527 of, *and to add Sections 31540 and 31541 to*, the Government Code, relating to county employees retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2664, as amended, Committee on Public Employees, Retirement and Social Security. County employees retirement: electronic signatures.

The County Employees Retirement Law of 1937 establishes county retirement boards for the administration of benefits authorized under that law and authorizes each board to include specified provisions, by regulation, with respect to the administration of benefits.

This bill would permit a county retirement board to include a provision for the use and acceptance of electronic signatures, as specified, within the regulations.

The Public Employees' Retirement Law (PERL) vests the Board of Administration of the Public Employees' Retirement System with management and control of the system. PERL authorizes the board to adjust retirement payments due to errors or omissions, as specified.

This bill would similarly authorize a county retirement system in Los Angeles County to adjust retirement payments due to errors or omissions using the same standards and period of limitations found in PERL.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 31527 of the Government Code is
2 amended to read:

3 31527. In its regulations, the board may include the following
4 provisions:

5 (a) From what warrants deductions of members' contributions
6 shall be made.

7 (b) For a period of time longer than one year during which a
8 member may redeposit in the retirement fund an amount equal to
9 all of the accumulated normal contributions that he or she has
10 withdrawn, plus regular interest thereon from the date of return to
11 service.

12 (c) For a period of time longer than one year during which a
13 member brought within the field of membership may pay into the
14 retirement fund the amount equal to the contributions he or she
15 would have made plus interest, if he or she had been a member
16 from the date of its organization, or from the date of his or her
17 entrance into service, whichever is later.

18 (d) For a withdrawal charge against a member who withdraws
19 his or her accumulated contributions. The withdrawal charge shall
20 not exceed the interest credited to the member subsequent to the
21 effective date of the regulation.

22 (e) For the exemption or exclusion from membership as a peace
23 officer member or as a safety member or from membership
24 altogether, in the discretion of the board, of persons whose tenure
25 is temporary, seasonal, intermittent, or for part time only, or
26 persons whose compensation is fixed at a rate by the day or hour.

27 (f) For the periodic physical examination, at county expense,
28 of safety members.

29 (g) The amount of additional deductions from the salaries or
30 wages of members pursuant to Article 15.5 (commencing with
31 Section 31841) or Article 16 (commencing with Section 31861).
32 Such a provision may be adopted in anticipation of, and prior to
33 Article 15.5 (commencing with Section 31841) or Article 16
34 (commencing with Section 31861) becoming operative in the
35 particular county.

36 (h) The day upon which each person becomes a member of the
37 association if it is to be other than the first day of the calendar
38 month after his or her entrance into service. However, that day

shall be no later than 12 weeks after his or her entrance into service, or the day upon which the member terminates service credited by the association, and that the day shall be no earlier than 12 weeks prior to the member's termination from employment.

(i) Notwithstanding any other law, for the use and acceptance of a document requiring a signature that is submitted by a member using an electronic signature, if the document and electronic signature are submitted using technology the board deems sufficient to ensure its integrity, security, and authenticity. A document submitted pursuant to the regulation shall be given the same force as a signed, valid original document.

SEC. 2. *Section 31540 is added to the Government Code, to read:*

31540. (a) The obligations of the retirement system to its members continue throughout their respective memberships, and the obligations of the retirement system to, and in respect to, retired members continue throughout the lives of the retired members, and thereafter until all obligations to the members' beneficiaries under optional settlements have been discharged. The obligations of the county or district to the retirement system with respect to members employed by them, respectively, continue throughout the memberships of the members, and the obligations of the county or district to the retirement system with respect to retired members formerly employed by them, respectively, continue until all of the obligations of the retirement system to those retired members have been discharged. The obligations of any member to the retirement system continue throughout his or her membership, and thereafter until all of the obligations of the retirement system to that member have been discharged.

(b) For the purposes of payments into or out of the retirement fund for adjustment of errors or omissions, the period of limitation of actions shall be three years, and shall be applied as follows:

(1) In cases in which the retirement system makes an erroneous payment to a member or beneficiary, the system's right to collect shall expire three years from the date of payment.

(2) In cases in which the retirement system owes money to a member or beneficiary, the period of limitation shall not apply.

(c) Notwithstanding subdivision (b), in cases in which payment is erroneous because of the death of the retired member or beneficiary or because of the remarriage of the beneficiary, the

1 *period of limitation shall be 10 years and that period shall*
2 *commence with the discovery of the erroneous payment.*

3 *(d) Notwithstanding subdivision (b), if any payment has been*
4 *made as a result of fraudulent reports for compensation made, or*
5 *caused to be made, by a member for his or her own benefit, the*
6 *period of limitation shall be 10 years and that period shall*
7 *commence either from the date of payment or upon discovery of*
8 *the fraudulent reporting, whichever date is later.*

9 *(e) The board shall determine the applicability of the period of*
10 *limitation in any case, and its determination with respect to the*
11 *running of any period of limitation shall be conclusive and binding*
12 *for purposes of correcting the error or omission.*

13 *(f) This section shall apply only to a county of the first class as*
14 *described in Section 28020.*

15 *SEC. 3. Section 31541 is added to the Government Code, to*
16 *read:*

17 *31541. (a) Subject to subdivisions (c) and (d), the board may,*
18 *in its discretion and upon any terms it deems just, correct the errors*
19 *or omissions of any active or retired member, or any beneficiary*
20 *of an active or retired member, if all of the following facts exist:*

21 *(1) The request, claim, or demand to correct the error or*
22 *omission is made by the party seeking correction within a*
23 *reasonable time after discovery of the right to make the correction,*
24 *which in no case shall exceed six months after discovery of this*
25 *right.*

26 *(2) The error or omission was the result of mistake,*
27 *inadvertence, surprise, or excusable neglect, as each of those terms*
28 *is used in Section 473 of the Code of Civil Procedure.*

29 *(3) The correction will not provide the party seeking correction*
30 *with a status, right, or obligation not otherwise available under*
31 *this part.*

32 *Failure by a member or beneficiary to make the inquiry that*
33 *would be made by a reasonable person in like or similar*
34 *circumstances does not constitute an “error or omission”*
35 *correctable under this section.*

36 *(b) Subject to subdivisions (c) and (d), the board shall correct*
37 *all actions taken as a result of errors or omissions of the county*
38 *or district, or this system.*

39 *(c) The duty and power of the board to correct mistakes, as*
40 *provided in this section, shall terminate upon the expiration of*

1 obligations of this system to the party seeking correction of the
2 error or omission, as those obligations are defined by Section
3 31540.

4 (d) The party seeking correction of an error or omission
5 pursuant to this section has the burden of presenting documentation
6 or other evidence to the board establishing the right to correction
7 pursuant to subdivisions (a) and (b).

8 (e) Corrections of errors or omissions pursuant to this section
9 shall be such that the status, rights, and obligations of all parties
10 described in subdivisions (a) and (b) are adjusted to be the same
11 as they would have been if the act that would have been taken, but
12 for the error or omission, was taken at the proper time. However,
13 notwithstanding any other provision of this section, corrections
14 made pursuant to this section shall adjust the status, rights, and
15 obligations of all parties described in subdivisions (a) and (b) as
16 of the time that the correction actually takes place if the board
17 finds any of the following:

18 (1) That the correction cannot be performed in a retroactive
19 manner.

20 (2) That, even if the correction can be performed in a retroactive
21 manner, the status, rights, and obligations of all of the parties
22 described in subdivisions (a) and (b) cannot be adjusted to be the
23 same, as they would have been if the error or omission had not
24 occurred.

25 (3) That the purposes of this chapter will not be effectuated if
26 the correction is performed in a retroactive manner.

27 (f) This section shall apply only to a county of the first class as
28 described in Section 28020.